



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

June 18, 2003

Mr. J. David Dodd, III
Nichols, Jackson, Dillard
Hager & Smith, LLP
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2003-4195

Dear Mr. Dodd:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 183088.

The City of Allen (the "city"), which you represent, received a request for a copy of the 911 tape recording regarding a particular accident. The requestor also asks that the city provide the number from which the call was made, if possible. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that you have not provided a copy of the requested 911 call tape recording for our review. Further, you have not indicated that such information does not exist or that you wish to withhold any such information from disclosure. To the extent a tape recording responsive to the request exists, we assume that it has been released. If you have not released any such information, you must release it to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302.

You claim that the information you have submitted is excepted from disclosure under section 552.101 of the Government Code pursuant to the "confidentiality exception" because these documents "relate to an investigation in which the alleged victim is a juvenile." We assume you are referring to section 261.201 of the Family Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 261.201 of the Family Code makes documents related to an allegation or investigation of child abuse confidential. However, after reviewing the submitted information, we find it does not in any way reference a juvenile, nor does it relate to an

allegation or investigation of child abuse. Therefore, you may not withhold the submitted information under section 552.101 in conjunction with section 261.201 of the Family Code.

You also assert that the information about the origination of a 911 call is confidential and you refer to Open Records Decision No. 649 (1996). Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 9-1-1 telephone numbers and addresses. Health & Safety Code §§ 772.401 *et seq.* Therefore, if the submitted call for service involves an emergency communication district subject to section 772.118, 772.218, or 772.318, and the phone number was furnished by a service supplier, we agree that the caller's telephone number is excepted from public disclosure based on section 552.101 of the Government Code as information deemed confidential by statute. The remaining submitted information, however, must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Sarah I. Swanson
Assistant Attorney General
Open Records Division

SIS/lmt

Ref: ID# 183088

Enc. Submitted documents

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(w/o enclosures)